

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1057**

Citations Affected: IC 9-30-15-3.

Synopsis: Open alcoholic beverage containers. Creates exceptions to the law concerning open alcoholic beverage containers in motor vehicles. Makes it a Class C infraction for a person in the passenger compartment of a motor vehicle to possess an alcoholic beverage container: (1) that has been opened; (2) that has a broken seal; or (3) from which some of the contents have been removed. Removes the requirement that, in proving a violation of the open container law, the state must show that the driver of the motor vehicle had a minimum level of alcohol in the driver's blood or breath. Specifies that a violation of the open container law occurs while a motor vehicle is on the right-of-way of a public highway even if the vehicle is not in operation. Specifies that a violation of the open container law is not considered a moving traffic violation: (1) for purposes of the law concerning bureau of motor vehicles operating records; and (2) for which points are assessed by the bureau under the point system. **(This conference committee report replaces the current contents of EHB 1057 with the January 25, 2005, version of HB 1057 that passed the House of Representatives on January 31, 2005, but makes the violation a Class C infraction instead of a Class D infraction.)**

Effective: July 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1057 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 9-30-15-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The operator of (a)~~
- 4 **This section does not apply to the following:**
- 5 (1) A container possessed by a person who is in the:
- 6 (A) passenger compartment of a motor vehicle designed,
- 7 maintained, or used primarily for the transportation of
- 8 persons for compensation; or
- 9 (B) living quarters of a house coach or house trailer.
- 10 (2) A container located in a fixed center console or other
- 11 similar fixed compartment that is locked.
- 12 (3) A container located:
- 13 (A) behind the last upright seat; or
- 14 (B) in an area not normally occupied by a person;
- 15 in a motor vehicle that is not equipped with a trunk.
- 16 (b) A person in a motor vehicle who has an alcohol concentration
- 17 equivalent to at least four-hundredths (0.04) gram of alcohol per one
- 18 hundred (100) milliliters of the blood; or per two hundred ten (210)
- 19 liters of the breath; and who, while the motor vehicle is in operation
- 20 knowingly allows or while the motor vehicle is located on the
- 21 right-of-way of a public highway, possesses a container:
- 22 (1) that has been opened;
- 23 (2) that has a broken seal; or

1 (3) from which some of the contents have been removed;
2 to be in the passenger compartment of the motor vehicle commits a
3 ~~Class B~~ **Class C** infraction. If a person is found to have a previous
4 unrelated judgment under this section or a previous unrelated
5 conviction or judgment under ~~IC 9-30-5~~ within twelve (12) months
6 before a violation that results in a judgment under this chapter, the court
7 may recommend the person's driving privileges be suspended for not
8 more than one (1) year.

9 (c) **A violation of this section is not considered a moving traffic**
10 **violation:**

11 (1) **for purposes of IC 9-14-3; and**

12 (2) **for which points are assessed by the bureau under the point**
13 **system.**

(Reference is to EHB 1057 as reprinted March 29, 2005.)

Conference Committee Report
on
Engrossed House Bill 1057

Signed by:

Representative Duncan
Chairperson

Senator Wyss

Representative Richardson

Senator Rogers

House Conferees

Senate Conferees